



AN ACT INCREASING THE LIMIT ON THE AMOUNT OF GROSS ANNUAL SALES THAT REQUIRES A PERSON WHO GROWS AND RETAILS MONTANA-GROWN PRODUCE TO PAY PRODUCE ASSESSMENT FEES AND OBTAIN A PRODUCE DEALER LICENSE; AMENDING SECTIONS 80-3-314 AND 80-3-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-3-314, MCA, is amended to read:

"80-3-314. Reporting requirements -- assessment fees -- exceptions. (1) Produce sold or distributed in this state must be reported; on forms approved by the department; and must be assessed a fee ~~per~~ for each produce unit or equivalent poundage. The fee amount may be adjusted by rule but must be at least 3 cents and not more than 7 cents ~~per~~ for each produce unit.

(2) The produce dealer who first distributes produce in this state or a grower who retails Montana-grown produce with gross annual sales exceeding ~~\$15,000~~ \$25,000 shall pay the produce assessment fee established in subsection (1). However, any produce dealer in possession of the produce may be held responsible for payment of the fee unless the grower has paid for a produce dealer license or has made available to the produce dealer a written form provided by the department stating that the assessment fees are being paid.

(3) The report and fees are due on or before the 30th day of the month following each calendar quarter.

(4) Payment of the produce assessment fee is not required on produce that is:

(a) grown and retailed in Montana by the grower if annual gross retail sales by the grower do not exceed ~~\$15,000~~ \$25,000;

(b) grown in this state, not packaged for market, and sold for resale by the grower;

(c) in the case of vegetative seed potato products, intended or used for planting purposes; or

(d) purchased from or distributed by a produce dealer licensed under 80-3-321 if the produce has been reported and the assessment fee has been paid."

Section 2. Section 80-3-321, MCA, is amended to read:

"80-3-321. Produce dealer license -- exception -- renewal. (1) A produce dealer license is required for any person who:

- (a) wholesales produce in this state;
- (b) transports produce from out of state into this state for retail sale; or
- (c) retails produce grown by the produce dealer in this state when gross retail sales exceed ~~\$15,000~~ \$25,000 annually.

(2) A produce dealer license is not required for a person who complies with the requirements of this part and ~~who~~:

- (a) retails produce grown by that person in this state if annual gross produce sales do not exceed ~~\$15,000; \$25,000. however~~ However, the person shall, upon request ~~by~~ of the department, furnish a sworn statement providing that the produce was grown by that person, stating the location where the produce was grown, and stating the amount of gross sales; ~~or~~ or.

(b) is a nonprofit organization that is recognized by the director and that retails only produce purchased from licensed produce dealers or from Montana produce dealers who are in compliance with this part.

(3) An applicant for a produce dealer license shall provide any information that the department finds necessary to carry out the provisions of this part. Produce dealer licenses expire on December 31 of the year of issuance. A produce dealer shall pay a nonrefundable license fee of \$50. A separate license is required for each place of business, including vehicles. The license fee must be credited toward the produce assessment fee prescribed in 80-3-314.

(4) A produce dealer license, if required, must be carried at any time produce is sold, and the license is subject to inspection by any person.

(5) A license issued under this section may not be sold or transferred from one vehicle or location to another without the written consent of the department."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0290, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 290

INTRODUCED BY GRINDE, MACDONALD

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